

CHAPTER 113—STATE JUSTICE INSTITUTE

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§ 10701. Definitions

As used in this chapter, the term—

- (1) “Board” means the Board of Directors of the Institute;
- (2) “Director” means the Executive Director of the Institute;
- (3) “Governor” means the Chief Executive Officer of a State;
- (4) “Institute” means the State Justice Institute;
- (5) “recipient” means any grantee, contractor, or recipient of financial assistance under this chapter;
- (6) “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States;
- (7) “Supreme Court” means the highest appellate court within a State unless, for the purposes of this chapter, a constitutionally or legislatively established judicial council acts in place of that court; and
- (8) “domestic violence” means—
 - (A) any action that constitutes—
 - (i) attempting to cause or intentionally, knowingly, or recklessly causing bodily injury or physical illness;
 - (ii) rape, sexual assault, or causing involuntary deviate sexual intercourse;
 - (iii) placing by physical menace another in fear of imminent serious bodily injury; or
 - (iv) the infliction of false imprisonment;
 if such action is taken by one of 2 spouses, former spouses, or sexual or intimate partners against the other spouse, former spouse, or partner and the 2 of whom share biological parenthood of, have adopted, are legal custodians of, or are stepparents of a minor child; or
 - (B) physically or sexually abusing such minor child if such abuse is inflicted by either of such spouses, former spouses, or partners.

(Pub. L. 98–620, title II, § 202, Nov. 8, 1984, 98 Stat. 3336; Pub. L. 102–528, § 1, Oct. 27, 1992, 106 Stat. 3461.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title II of Pub. L. 98–620, Nov. 8, 1984, 98 Stat. 3336, known as the State Justice Institute

Act of 1984, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note below and Tables.

AMENDMENTS

1992—Par. (8). Pub. L. 102–528 added par. (8).

EFFECTIVE DATE

Pub. L. 98–620, title II, § 216, Nov. 8, 1984, 98 Stat. 3346, provided that: “The provisions of this title [enacting this chapter and amending section 620 of Title 28, Judiciary and Judicial Procedure] shall take effect on October 1, 1985.”

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–372, § 1, Oct. 25, 2004, 118 Stat. 1754, provided that: “This Act [amending sections 3793, 10703, 10704, and 10713 of this title] may be cited as the ‘State Justice Institute Reauthorization Act of 2004’.”

SHORT TITLE

Pub. L. 98–620, title II, § 201, Nov. 8, 1984, 98 Stat. 3336, provided that: “This title [enacting this chapter and amending section 620 of Title 28, Judiciary and Judicial Procedure] may be cited as the ‘State Justice Institute Act of 1984’.”

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 10702. Establishment of Institute; duties**(a) Establishment; purpose; incorporation; powers**

There is established a private nonprofit corporation which shall be known as the State Justice Institute. The purpose of the Institute shall be to further the development and adoption of improved judicial administration in State courts in the United States. The Institute may be incorporated in any State pursuant to section 10703(a)(6) of this title. To the extent consistent with the provisions of this chapter, the Institute may exercise the powers conferred upon a nonprofit corporation by the laws of the State in which it is incorporated.

(b) Duties

The Institute shall—

- (1) direct a national program of assistance designed to assure each person ready access to a fair and effective system of justice by providing funds to—
 - (A) State courts;
 - (B) national organizations which support and are supported by State courts; and
 - (C) any other nonprofit organization that will support and achieve the purposes of this chapter;
- (2) foster coordination and cooperation with the Federal judiciary in areas of mutual concern;
- (3) promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and
- (4) encourage education for judges and support personnel of State court systems through national and State organizations, including universities.

(Pub. L. 98–620, title II, § 203, Nov. 8, 1984, 98 Stat. 3337; Pub. L. 102–528, § 1, Oct. 27, 1992, 106 Stat. 3461.)

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- (2) foster coordination and cooperation with the Federal judiciary in areas of mutual concern;
- (3) promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and
- (4) encourage education for judges and support personnel of State court systems through national and State organizations, including universities.

(c) Duplication of functions; responsibility of State agencies

The Institute shall not duplicate functions adequately performed by existing nonprofit or-

ganizations and shall promote, on the part of agencies of State judicial administration, responsibility for the success and effectiveness of State court improvement programs supported by Federal funding.

(d) Maintenance of offices in State of incorporation; agent for receipt of service of process

The Institute shall maintain its principal offices in the State in which it is incorporated and shall maintain therein a designated agent to accept service of process for the Institute. Notice to or service upon the agent shall be deemed notice to or service upon the Institute.

(e) Tax status of Institute and programs assisted thereby

The Institute, and any program assisted by the Institute, shall be eligible to be treated as an organization described in section 170(c)(2)(B) of title 26 and as an organization described in section 501(c)(3) of title 26 which is exempt from taxation under section 501(a) of title 26. If such treatments are conferred in accordance with the provisions of title 26, the Institute, and programs assisted by the Institute, shall be subject to all provisions of title 26 relevant to the conduct of organizations exempt from taxation.

(f) Rules, regulations, etc.; notice and comment

The Institute shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, guidelines, and instructions under this chapter, and it shall publish in the Federal Register all rules, regulations, guidelines, and instructions.

(Pub. L. 98-620, title II, § 203, Nov. 8, 1984, 98 Stat. 3336; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-690, title VII, § 7321(b)(1), Nov. 18, 1988, 102 Stat. 4466; Pub. L. 100-702, title VI, § 601, Nov. 19, 1988, 102 Stat. 4652; Pub. L. 102-528, § 3(1), Oct. 27, 1992, 106 Stat. 3462.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b)(1)(C), and (f), was in the original “this title”, meaning title II of Pub. L. 98-620, Nov. 8, 1984, 98 Stat. 3336, known as the State Justice Institute Act of 1984, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 10701 of this title and Tables.

AMENDMENTS

1992—Subsec. (f). Pub. L. 102-528 struck out at end “The publication of a substantive rule shall not be made less than thirty days before the effective date of such rule, except as otherwise provided by the Institute for good cause found and published with the rule.”

1988—Subsec. (f). Pub. L. 100-690 and Pub. L. 100-702 made substantially identical amendments, striking out “, at least thirty days prior to their effective date,” after “Federal Register” and inserting sentence at end relating to publication of a substantive rule.

1986—Subsec. (e). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954” wherever appearing, which for purposes of codification was translated as “title 26” thus requiring no change in text.

BATTERED WOMEN’S TESTIMONY

Pub. L. 102-527, Oct. 27, 1992, 106 Stat. 3459, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Battered Women’s Testimony Act of 1992’.

“SEC. 2. AUTHORITY OF STATE JUSTICE INSTITUTE.

“The State Justice Institute shall—

“(1) collect nationwide and analyze information regarding—

“(A) the admissibility and quality of expert testimony on the experiences of battered women offered as part of the defense in criminal cases under State law, and

“(B) sources of, and methods to obtain, funds to pay costs incurred to provide such testimony, particularly in cases involving indigent women defendants,

“(2) develop training materials to assist—

“(A) battered women, operators of domestic violence shelters, battered women’s advocates, and attorneys to use such expert testimony in appropriate cases, particularly appropriate cases involving indigent women defendants, and

“(B) individuals with expertise in the experiences of battered women to develop skills appropriate to providing such expert testimony, and

“(3) disseminate such information and such training materials, and provide related technical assistance, to battered women, such operators, such advocates, such attorneys, and such individuals.

“SEC. 3. ADMINISTRATIVE PROVISIONS.

“For purposes of this Act—

“(1) subsections (d) and (e) of section 206 of the State Justice Institute Act of 1984 [42 U.S.C. 10705(d), (e)], and

“(2) subsections (a) and (b) of section 207 of such Act [42 U.S.C. 10706(a), (b)],

shall apply in the same manner as such subsections apply with respect to grants and contracts made under such Act [42 U.S.C. 10701 et seq.].

“SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

“There is authorized to be appropriated \$600,000 to carry out this Act.”

§ 10703. Board of Directors

(a) Appointment and membership

(1) The Institute shall be supervised by a Board of Directors, consisting of eleven voting members to be appointed by the President, by and with the advice and consent of the Senate. The Board shall have both judicial and nonjudicial members, and shall, to the extent practicable, have a membership representing a variety of backgrounds and reflecting participation and interest in the administration of justice.

(2) The Board shall consist of—

(A) six judges, to be appointed in the manner provided in paragraph (3);

(B) one State court administrator, to be appointed in the manner provided in paragraph (3); and

(C) four members from the public sector, no more than two of whom shall be of the same political party, to be appointed in the manner provided in paragraph (4).

(3) The President shall appoint six judges and one State court administrator from a list of candidates submitted to the President by the Conference of Chief Justices. The Conference of Chief Justices shall submit a list of at least fourteen individuals, including judges and State court administrators, whom the Conference considers best qualified to serve on the Board. Whenever the term of any of the members of the Board described in subparagraphs (A) and (B) terminates and that member is not to be reappointed to a new term, and whenever a vacancy

otherwise occurs among those members, the President shall appoint a new member from a list of three qualified individuals submitted to the President by the Conference of Chief Justices. The President may reject any list of individuals submitted by the Conference under this paragraph and, if such a list is so rejected, the President shall request the Conference to submit to him another list of qualified individuals. Prior to consulting with or submitting a list to the President, the Conference of Chief Justices shall obtain and consider the recommendations of all interested organizations and individuals concerned with the administration of justice and the objectives of this chapter.

(4) In addition to those members appointed under paragraph (3), the President shall appoint four members from the public sector to serve on the Board.

(5) The President shall make the initial appointments of members of the Board under this subsection within ninety days after October 1, 1985. In the case of any other appointment of a member, the President shall make the appointment not later than ninety days after the previous term expires or the vacancy occurs, as the case may be. The Conference of Chief Justices shall submit lists of candidates under paragraph (3) in a timely manner so that the appointments can be made within the time periods specified in this paragraph.

(6) The initial members of the Board of Directors shall be the incorporators of the Institute and shall determine the State in which the Institute is to be incorporated.

(b) Term of office

(1) Except as provided in paragraph (2), the term of each voting member of the Board shall be three years. Each member of the Board shall continue to serve until the successor to such member has been appointed and qualified.

(2) Five of the members first appointed by the President shall serve for a term of two years. Any member appointed to serve an unexpired term which has arisen by virtue of the death, disability, retirement, or resignation of a member shall be appointed only for such unexpired term, but shall be eligible for reappointment.

(3) The term of initial members shall commence from the date of the first meeting of the Board, and the term of each member other than an initial member shall commence from the date of termination of the preceding term.

(c) Reappointment

No member shall be reappointed to more than two consecutive terms immediately following such member's initial term.

(d) Compensation; reimbursement for expenses

Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(e) Status of members of Board as officers and employees of United States

The members of the Board shall not, by reason of such membership, be considered officers or employees of the United States.

(f) Voting rights of Board members; quorum; action of Board on concurrence of majority

Each member of the Board shall be entitled to one vote. A simple majority of the membership shall constitute a quorum for the conduct of business. The Board shall act upon the concurrence of a simple majority of the membership present and voting.

(g) Chairman; initial selection and term of office; subsequent annual election

The Board shall select from among the voting members of the Board a chairman, the first of whom shall serve for a term of three years. Thereafter, the Board shall annually elect a chairman from among its voting members.

(h) Grounds for removal of members

A member of the Board may be removed by a vote of seven members for malfeasance in office, persistent neglect of, or inability to discharge duties, or for any offense involving moral turpitude, but for no other cause.

(i) Quarterly meetings of Board; special meetings

Regular meetings of the Board shall be held quarterly. Special meetings shall be held from time to time upon the call of the chairman, acting at his own discretion or pursuant to the petition of any seven members.

(j) Open meetings

All meetings of the Board, any executive committee of the Board (on any occasion on which that committee has been delegated the authority to act on behalf of the Board), and any council established in connection with this chapter, shall be open and subject to the requirements and provisions of section 552b of title 5 relating to open meetings.

(k) Duties and functions of Board

In its direction and supervision of the activities of the Institute, the Board shall—

(1) establish policies and develop such programs for the Institute that will further the achievement of its purpose and performance of its functions;

(2) establish policy and funding priorities and issue rules, regulations, guidelines, and instructions pursuant to such priorities;

(3) appoint and fix the duties of the Executive Director of the Institute, who shall serve at the pleasure of the Board and shall be a nonvoting ex officio member of the Board;

(4) present to other Government departments, agencies, and instrumentalities whose programs or activities relate to the administration of justice in the State judiciaries of the United States, the recommendations of the Institute for the improvement of such programs or activities;

(5) consider and recommend to both public and private agencies aspects of the operation of the State courts of the United States considered worthy of special study; and

(6) award grants and enter into cooperative agreements or contracts pursuant to section 10705(a) of this title.

(Pub. L. 98-620, title II, § 204, Nov. 8, 1984, 98 Stat. 3337; Pub. L. 102-572, title VIII, § 803(a), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 108-372, § 3(c), Oct. 25, 2004, 118 Stat. 1754.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(3) and (j), was in the original “this title”, meaning title II of Pub. L. 98-620, Nov. 8, 1984, 98 Stat. 3336, known as the State Justice Institute Act of 1984, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 10701 of this title and Tables.

AMENDMENTS

2004—Subsec. (j). Pub. L. 108-372 inserted “(on any occasion on which that committee has been delegated the authority to act on behalf of the Board)” after “executive committee of the Board”.

1992—Subsec. (a)(3). Pub. L. 102-572 substituted “Conference” for “conference” after “whom the” in second sentence.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-572, title VIII, §804, Oct. 29, 1992, 106 Stat. 4516, provided that: “The provisions of this title [amending this section and sections 10705 and 10713 of this title] shall take effect on the date of the enactment of this Act [Oct. 29, 1992].”

§ 10704. Officers and employees**(a) Duties of Director; appointment and removal of employees; political tests or qualifications prohibited**

(1) The Director, subject to general policies established by the Board, shall supervise the activities of persons employed by the Institute and may appoint and remove such employees as he determines necessary to carry out the purposes of the Institute. The Director shall be responsible for the executive and administrative operations of the Institute, and shall perform such duties as are delegated to such Director by the Board and the Institute.

(2) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Institute, or in selecting or monitoring any grantee, contractor, person, or entity receiving financial assistance under this chapter.

(b) Compensation

Officers and employees of the Institute shall be compensated at rates determined by the Board, but not in excess of the rate of level V of the Executive Schedule specified in section 5316 of title 5.

(c) Status of Institute as department, agency, or instrumentality of Federal Government; authority of Office of Management and Budget

(1) Except as otherwise specifically provided in this chapter, the Institute shall not be considered a department, agency, or instrumentality of the Federal Government.

(2) This chapter does not limit the authority of the Office of Management and Budget to review and submit comments upon the Institute's annual budget request at the time it is transmitted to the Congress.

(3) The Institute may purchase goods and services from the General Services Administration in order to carry out its functions.

(d) Status of officers and employees of Institute as officers and employees of United States

(1) Except as provided in paragraph (2), officers and employees of the Institute shall not be con-

sidered officers or employees of the United States.

(2) Officers and employees of the Institute shall be considered officers and employees of the United States solely for the purposes of the following provisions of title 5: Subchapter I of chapter 81 (relating to compensation for work injuries); chapters 83 and 84 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance), notwithstanding section 8914 of such title. The Institute shall make contributions under the provisions referred to in this subsection at the same rates applicable to agencies of the Federal Government.

(e) Freedom of information requirements

The Institute and its officers and employees shall be subject to the provisions of section 552 of title 5 relating to freedom of information.

(Pub. L. 98-620, title II, §205, Nov. 8, 1984, 98 Stat. 3339; Pub. L. 100-690, title VII, §7321(b)(2), Nov. 18, 1988, 102 Stat. 4466; Pub. L. 100-702, title VI, §602, Nov. 19, 1988, 102 Stat. 4653; Pub. L. 108-372, §3(a), (b), Oct. 25, 2004, 118 Stat. 1754.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(2) and (c)(1), (2), was in the original “this title”, meaning title II of Pub. L. 98-620, Nov. 8, 1984, 98 Stat. 3336, known as the State Justice Institute Act of 1984, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 10701 of this title and Tables.

AMENDMENTS

2004—Subsec. (c)(3). Pub. L. 108-372, §3(a), added par. (3).

Subsec. (d)(2). Pub. L. 108-372, §3(b), inserted “, notwithstanding section 8914 of such title” after “(relating to health insurance)”.

1988—Subsec. (d)(2). Pub. L. 100-690 and Pub. L. 100-702 amended par. (2) identically, substituting “chapters 83 and 84” for “chapter 83”.

§ 10705. Grants and contracts**(a) Authority of Institute; purposes of grants**

The Institute is authorized to award grants and enter into cooperative agreements or contracts, in a manner consistent with subsection (b) of this section, in order to—

(1) conduct research, demonstrations, or special projects pertaining to the purposes described in this chapter, and provide technical assistance and training in support of tests, demonstrations, and special projects;

(2) serve as a clearinghouse and information center, where not otherwise adequately provided, for the preparation, publication, and dissemination of information regarding State judicial systems;

(3) participate in joint projects with other agencies, including the Federal Judicial Center, with respect to the purposes of this chapter;

(4) evaluate, when appropriate, the programs and projects carried out under this chapter to determine their impact upon the quality of criminal, civil, and juvenile justice and the extent to which they have met or failed to meet the purposes and policies of this chapter;

(5) encourage and assist in the furtherance of judicial education;

(6) encourage, assist, and serve in a consulting capacity to State and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services; and

(7) be responsible for the certification of national programs that are intended to aid and improve State judicial systems.

(b) Priority in making awards; alternative recipients; approval of applications; receipt and administration of funds; accountability

The Institute is empowered to award grants and enter into cooperative agreements or contracts as follows:

(1) The Institute may award grants to or enter into cooperative agreements or contracts with—

(A) State and local courts and their agencies;

(B) national nonprofit organizations controlled by, operating in conjunction with, and serving the judicial branches of State governments; and

(C) national nonprofit organizations for the education and training of judges and support personnel of the judicial branch of State governments.

(2) The Institute may, if the objective can better be served thereby, award grants to or enter into cooperative agreements or contracts with—

(A) other nonprofit organizations with expertise in judicial administration;

(B) institutions of higher education;

(C) individuals, partnerships, firms, or corporations; and

(D) private agencies with expertise in judicial administration.

(3) Upon application by an appropriate State or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of State or local government other than a court.

(4) The Institute may enter into contracts with Federal agencies to carry out the purposes of this chapter.

(5) Each application for funding by a State or local court shall be approved, consistent with State law, by the State's supreme court, or its designated agency or council, which shall receive, administer, and be accountable for all funds awarded by the Institute to such courts.

(c) Permissible uses of funds

Funds available pursuant to grants, cooperative agreements, or contracts awarded under this section may be used—

(1) to assist State and local court systems in establishing appropriate procedures for the selection and removal of judges and other court personnel and in determining appropriate levels of compensation;

(2) to support education and training programs for judges and other court personnel, for the performance of their general duties and

for specialized functions, and to support national and regional conferences and seminars for the dissemination of information on new developments and innovative techniques;

(3) to conduct research on alternative means for using judicial and nonjudicial personnel in court decisionmaking activities, to implement demonstration programs to test innovative approaches, and to conduct evaluations of their effectiveness;

(4) to support studies of the appropriateness of¹ efficacy of court organization and financing structures in particular States, and to enable States to implement plans for improved court organization and finance;

(5) to support State court planning and budgeting staffs and to provide technical assistance in resource allocation and service forecasting techniques;

(6) to support studies of the adequacy of court management systems in State and local courts and to implement and evaluate innovative responses to problems of record management, data processing, court personnel management, reporting and transcription of court proceedings, and juror utilization and management;

(7) to collect and compile statistical data and other information on the work of the courts and on the work of other agencies which relate to and affect the work of courts;

(8) to conduct studies of the causes of trial and appellate court delay in resolving cases, and to establish and evaluate experimental programs for reducing case processing time;

(9) to develop and test methods for measuring the performance of judges and courts and to conduct experiments in the use of such measures to improve the functioning of such judges and courts;

(10) to support studies of court rules and procedures, discovery devices, and evidentiary standards, to identify problems with the operation of such rules, procedures, devices, and standards, to devise alternative approaches to better reconcile the requirements of due process with the need for swift and certain justice, and to test the utility of those alternative approaches;

(11) to support studies of the outcomes of cases in selected subject matter areas to identify instances in which the substance of justice meted out by the courts diverges from public expectations of fairness, consistency, or equity, to propose alternative approaches to the resolving of cases in problem areas, and to test and evaluate those alternatives;

(12) to support programs to increase court responsiveness to the needs of citizens through citizen education, improvement of court treatment of witnesses, victims, and jurors, and development of procedures for obtaining and using measures of public satisfaction with court processes to improve court performance;

(13) to test and evaluate experimental approaches to providing increased citizen access to justice, including processes which reduce the cost of litigating common grievances and alternative techniques and mechanisms for resolving disputes between citizens;

¹ So in original. Probably should be "and".

(14) conduct² not more than 5 projects at an aggregate cost of not to exceed \$600,000—

(A) to investigate, and carry out research regarding State judicial decisions relating to child custody litigation involving domestic violence;

(B) to develop training curricula to assist State courts to develop an understanding of, and appropriate responses to, child custody litigation involving domestic violence; and

(C) to disseminate the results of the investigation and research carried out under subparagraph (A), and the curricula developed under subparagraph (B), to State courts; and

(15) to carry out such other programs, consistent with the purposes of this chapter, as may be deemed appropriate by the Institute.

(d) Matching fund requirements

The Institute shall incorporate in any grant, cooperative agreement, or contract awarded under this section in which a State or local court (or other unit of State or local government) is the recipient, the requirement that the recipient provide a match, from private or public sources, not less than 50 per centum of the total cost of such grant, cooperative agreement, or contract, except that such requirement may be waived in exceptionally rare circumstances upon the approval of the chief justice of the highest court of the State and a majority of the Board of Directors.

(e) Compliance monitoring and evaluation by Institute

The Institute shall monitor and evaluate, or provide for independent evaluations of, programs supported in whole or in part under this chapter to ensure that the provisions of this chapter, the bylaws of the Institute, and the applicable rules, regulations, and guidelines promulgated pursuant to this chapter, are carried out.

(f) Independent study of financial and technical assistance programs

The Institute shall provide for an independent study of the financial and technical assistance programs under this chapter.

(Pub. L. 98-620, title II, § 206, Nov. 8, 1984, 98 Stat. 3340; Pub. L. 100-690, title VII, § 7321(b)(3), (4), Nov. 18, 1988, 102 Stat. 4466, 4467; Pub. L. 100-702, title VI, §§ 603, 604, Nov. 19, 1988, 102 Stat. 4653; Pub. L. 102-528, §§ 2, 3(2), Oct. 27, 1992, 106 Stat. 3461, 3462; Pub. L. 102-572, title VIII, §§ 802, 803(b), Oct. 29, 1992, 106 Stat. 4515, 4516.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (3), (4), (b)(4), (c)(15), (e), and (f), was in the original “this title”, meaning title II of Pub. L. 98-620, Nov. 8, 1984, 98 Stat. 3336, known as the State Justice Institute Act of 1984, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 10701 of this title and Tables.

AMENDMENTS

1992—Subsec. (b)(1). Pub. L. 102-572, § 802(1), substituted “may award grants to or enter into coopera-

tive agreements or contracts” for “shall give priority to grants, cooperative agreements, or contracts” in introductory provisions and substituted semicolon for comma in subpar. (A).

Subsec. (b)(2). Pub. L. 102-572, § 802(2), inserted “to” after “award grants”.

Subsec. (b)(3). Pub. L. 102-572, § 802(3), added par. (3) and struck out former par. (3) which read as follows: “Upon application by an appropriate Federal, State, or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of Federal, State, or local government other than a court.”

Subsec. (b)(4), (5). Pub. L. 102-572, § 802(4), (5), added par. (4) and redesignated former par. (4) as (5).

Subsec. (c)(3). Pub. L. 102-528, § 3(2), struck out “judicial and” before “nonjudicial” the second place appearing.

Subsec. (c)(4) to (6). Pub. L. 102-528, § 3(2)(B), (C), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively. Former par. (6) redesignated (7).

Subsec. (c)(7). Pub. L. 102-572, § 803(b), substituted “affect” for “effect”.

Pub. L. 102-528, § 3(2)(B), redesignated par. (6) as (7). Former par. (7) redesignated (8).

Subsec. (c)(8) to (12). Pub. L. 102-528, § 3(2)(B), redesignated pars. (7) to (11) as (8) to (12), respectively. Former par. (12) redesignated (13).

Subsec. (c)(13). Pub. L. 102-528, § 3(2)(B), redesignated par. (12) as (13). Former par. (13) redesignated (14).

Pub. L. 102-528, § 2, added par. (13) and redesignated former par. (13) as (14).

Subsec. (c)(14). Pub. L. 102-528, § 3(2)(B), redesignated par. (13) as (14). Former par. (14) redesignated (15).

Pub. L. 102-528, § 2, redesignated par. (13) as (14).

Subsec. (c)(15). Pub. L. 102-528, § 3(2)(B), redesignated par. (14) as (15).

1988—Subsec. (c)(3). Pub. L. 100-702, § 603(1), inserted “judicial and” before “nonjudicial”.

Pub. L. 100-690, § 7321(b)(3)(A), inserted “judicial and” before “nonjudicial”.

Subsec. (c)(4) to (15). Pub. L. 100-702, § 603(2), (3), which directed the striking out of par. (4) and redesignation of pars. (5) to (15) as (4) to (14), respectively, was executed by striking out par. (4) and redesignating pars. (5) to (14) as (4) to (13), respectively, in view of the intervening redesignation of pars. (5) to (15) as (4) to (14), respectively, by Pub. L. 100-690, § 7321(b)(3)(C). See below. Prior to amendment, par. (4) read as follows: “to support studies of the appropriateness and efficacy of court organizations and financing structures in particular States, and to enable States to implement plans for improved court organization and finance;”.

Pub. L. 100-690, § 7321(b)(3)(B), (C), redesignated pars. (5) to (15) as (4) to (14), respectively, and struck out former par. (4) which read as follows: “to assist State and local courts in meeting requirements of Federal law applicable to recipients of Federal funds;”.

Subsec. (d). Pub. L. 100-702, § 604, which directed the substitution of “court (or other unit of State or local government)” for “judicial system”, could not be executed due to prior amendment by Pub. L. 100-690, § 7321(b)(4). See below.

Pub. L. 100-690, § 7321(b)(4), substituted “court (or other unit of State or local government)” for “judicial system”.

§ 10706. Limitations on grants and contracts

(a) Duties of Institute

With respect to grants made and contracts or cooperative agreements entered into under this chapter, the Institute shall—

(1) ensure that no funds made available to recipients by the Institute shall be used at any

² So in original. Probably should be “to conduct”.

time, directly or indirectly, to influence the issuance, amendment, or revocation of any Executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation or constitutional amendment by the Congress of the United States, or by any State or local legislative body, or any State proposal by initiative petition, or of any referendum, unless a governmental agency, legislative body, a committee, or a member thereof—

(A) requests personnel of the recipients to testify, draft, or review measures or to make representations to such agency, body, committee, or member; or

(B) is considering a measure directly affecting the activities under this chapter of the recipient or the Institute; and

(2) ensure all personnel engaged in grant, cooperative agreement or contract assistance activities supported in whole or part by the Institute refrain, while so engaged, from any partisan political activity.

(b) Use of funds for training programs for advocacy of nonjudicial public policies or encouraging nonjudicial political activities

No funds made available by the Institute under this chapter, either by grant, cooperative agreement, or contract, may be used to support or conduct training programs for the purpose of advocating particular nonjudicial public policies or encouraging nonjudicial political activities.

(c) Authority coextensive with appropriation Acts

The authorization to enter into cooperative agreements, contracts or any other obligation under this chapter shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

(d) Prohibited uses of funds

To ensure that funds made available under this chapter are used to supplement and improve the operation of State courts, rather than to support basic court services, funds shall not be used—

(1) to supplant State or local funds currently supporting a program or activity; or

(2) to construct court facilities or structures, except to remodel existing facilities to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program.

(Pub. L. 98–620, title II, § 207, Nov. 8, 1984, 98 Stat. 3342; Pub. L. 100–702, title VI, § 605, Nov. 19, 1988, 102 Stat. 4653.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, except in subsec. (d) where it was in the original “this Act”, meaning title II of Pub. L. 98–620, Nov. 8, 1984, 98 Stat. 336, known as the State Justice Institute Act of 1984, which enacted this chapter and amended section 620 of Title 28, Judiciary and Judicial Procedure. For complete classification of title II to the Code, see Short Title note set out under section 17101 of this title and Tables.

AMENDMENTS

1988—Subsec. (a)(3). Pub. L. 100–702 struck out par. (3) which read as follows: “ensure that each recipient that files with the Institute a timely application for refunding is provided interim funding necessary to maintain its current level of activities until—

“(A) the application for refunding has been approved and funds pursuant thereto received; or

“(B) the application for refunding has been finally denied in accordance with section 10708 of this title.”

§ 10707. Restrictions on activities of the Institute

(a) Litigation; interference with independence of State judiciary; funding of State judicial system activities other than pursuant to this chapter; legislative lobbying

The Institute shall not—

(1) participate in litigation unless the Institute or a recipient of the Institute is a party, and shall not participate on behalf of any client other than itself;

(2) interfere with the independent nature of any State judicial system or allow financial assistance to be used for the funding of regular judicial and administrative activities of any State judicial system other than pursuant to the terms of any grant, cooperative agreement, or contract with the Institute, consistent with the requirements of this chapter; or

(3) undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative body, except that personnel of the Institute may testify or make other appropriate communication—

(A) when formally requested to do so by a legislative body, committee, or a member thereof;

(B) in connection with legislation or appropriations directly affecting the activities of the Institute; or

(C) in connection with legislation or appropriations dealing with improvements in the State judiciary, consistent with the provisions of this chapter.

(b) Issuance of shares of stock; declaration of dividends; compensation for services; reimbursement for expenses; political activities

(1) The Institute shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Institute shall enure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) Neither the Institute nor any recipient shall contribute or make available Institute funds or program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office.

(4) The Institute shall not contribute or make available Institute funds or program personnel or equipment for use in advocating or opposing any ballot measure, initiative, or referendum.

(c) Identification of Institute with political activities

Officers and employees of the Institute or of recipients shall not at any time intentionally identify the Institute or the recipient with any

partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office.

(Pub. L. 98-620, title II, § 208, Nov. 8, 1984, 98 Stat. 3343.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this title”, meaning title II of Pub. L. 98-620, Nov. 8, 1984, 98 Stat. 3336, known as the State Justice Institute Act of 1984, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 10701 of this title and Tables.

§ 10708. Administrative provisions

(a) The Institute shall prescribe procedures to ensure that financial assistance under this chapter shall not be suspended unless the grantee, contractor, person, or entity receiving financial assistance under this chapter has been given reasonable notice and opportunity to show cause why such actions should not be taken.

(b) Except as provided by Federal law other than this chapter, no officer or employee of the Institute, and no recipient of assistance under this chapter, may use or reveal any research or statistical information furnished under this chapter by any person and identifiable to any specific private person for any purpose other than the purpose for which the information was obtained in accordance with this chapter. Such information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.

(Pub. L. 98-620, title II, § 209, Nov. 8, 1984, 98 Stat. 3344; Pub. L. 100-702, title VI, § 606, Nov. 19, 1988, 102 Stat. 4653.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title II of Pub. L. 98-620, Nov. 8, 1984, 98 Stat. 3336, known as the State Justice Institute Act of 1984, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 10701 of this title and Tables.

AMENDMENTS

1988—Pub. L. 100-702 substituted “Administrative provisions” for “Special procedures” in section catchline, and amended text generally, changing structure of section from a single unlettered paragraph to one consisting of subsecs. (a) and (b).

§ 10709. Presidential coordination

The President may, to the extent not inconsistent with any other applicable law, direct that appropriate support functions of the Federal Government may be made available to the Institute in carrying out its functions under this chapter.

(Pub. L. 98-620, title II, § 210, Nov. 8, 1984, 98 Stat. 3344.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title II of Pub. L. 98-620, Nov. 8,

1984, 98 Stat. 3336, known as the State Justice Institute Act of 1984, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 10701 of this title and Tables.

§ 10710. Records and reports

(a) Reports

The Institute is authorized to require such reports as it deems necessary from any recipient with respect to activities carried out pursuant to this chapter.

(b) Records

The Institute is authorized to prescribe the keeping of records with respect to funds provided by any grant, cooperative agreement, or contract under this chapter and shall have access to such records at all reasonable times for the purpose of ensuring compliance with such grant, cooperative agreement, or contract or the terms and conditions upon which financial assistance was provided.

(c) Submission of copies of reports to recipients; maintenance in principal office of Institute; availability for public inspection; furnishing of copies to interested parties

Copies of all reports pertinent to the evaluation, inspection, or monitoring of any recipient shall be submitted on a timely basis to such recipient, and shall be maintained in the principal office of the Institute for a period of at least five years after such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Institute may establish.

(d) Funds accounted for and reported as receipts and disbursements separate and distinct from Federal funds

Non-Federal funds received by the Institute, and funds received for projects funded in part by the Institute or by any recipient from a source other than the Institute, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds.

(Pub. L. 98-620, title II, § 211, Nov. 8, 1984, 98 Stat. 3344.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original “this title”, meaning title II of Pub. L. 98-620, Nov. 8, 1984, 98 Stat. 3336, known as the State Justice Institute Act of 1984, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 10701 of this title and Tables.

§ 10711. Audits

(a) Time and place of audits; standards; availability of books, accounts, facilities, etc., to auditors; filing of report and availability for public inspection

(1) The accounts of the Institute shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(2) The audits shall be conducted at the place or places where the accounts of the Institute are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audits shall be made available to the person or persons conducting the audits. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.

(3) The report of the annual audit shall be filed with the Government Accountability Office and shall be available for public inspection during business hours at the principal office of the Institute.

(b) Additional audits; requirements; reports and recommendations to Congress and Attorney General

(1) In addition to the annual audit, the financial transactions of the Institute for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the Government Accountability Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(2) Any such audit shall be conducted at the place or places where accounts of the Institute are normally kept. The representatives of the Government Accountability Office shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audit. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Institute shall remain in the possession and custody of the Institute throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the Government Accountability Office may require the retention of such books, accounts, financial records, reports, files, and other papers or property for a longer period under section 3523(c) of title 31.

(3) A report of such audit shall be made by the Comptroller General to the Congress and to the Attorney General, together with such recommendations with respect thereto as the Comptroller General deems advisable.

(c) Annual audits by Institute or recipients; reports; submission of copies to Comptroller General; inspection of books, accounts, etc.; availability of audit reports for public inspection

(1) The Institute shall conduct, or require each recipient to provide for, an annual fiscal audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the Institute.

(2) The Institute shall submit to the Comptroller General of the United States copies of such reports, and the Comptroller General may, in addition, inspect the books, accounts, financial records, files, and other papers or property belonging to or in use by such grantee, contractor,

person, or entity, which relate to the disposition or use of funds received from the Institute. Such audit reports shall be available for public inspection during regular business hours, at the principal office of the Institute.

(Pub. L. 98-620, title II, § 212, Nov. 8, 1984, 98 Stat. 3345; Pub. L. 108-271, § 8(b), July 7, 2004, 118 Stat. 814.)

AMENDMENTS

2004—Subsecs. (a)(3), (b)(1), (2). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office” wherever appearing.

§ 10712. Report by Attorney General

Not later than October 1, 2002, the Attorney General, in consultation with the Federal Judicial Center, shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the effectiveness of the Institute in carrying out the duties specified in section 10702(b) of this title. Such report shall include an assessment of the cost effectiveness of the program as a whole and, to the extent practicable, of individual grants, an assessment of whether the restrictions and limitations specified in sections 10706 and 10707 of this title have been respected, and such recommendations as the Attorney General, in consultation with the Federal Judicial Center, deems appropriate.

(Pub. L. 98-620, title II, § 213, Nov. 8, 1984, 98 Stat. 3346; Pub. L. 107-179, § 1, May 20, 2002, 116 Stat. 580.)

AMENDMENTS

2002—Pub. L. 107-179 substituted “Not later than October 1, 2002” for “On October 1, 1987”.

§ 10713. Authorization of appropriations

There are authorized to be appropriated to carry out the purposes of this chapter, \$7,000,000 for each of fiscal years 2005, 2006, 2007, and 2008. Amounts appropriated for each such year are to remain available until expended.

(Pub. L. 98-620, title II, § 215, Nov. 8, 1984, 98 Stat. 3346; Pub. L. 100-690, title VII, § 7321(a), Nov. 18, 1988, 102 Stat. 4466; Pub. L. 100-702, title VI, § 607, Nov. 19, 1988, 102 Stat. 4654; Pub. L. 101-162, title V, Nov. 21, 1989, 103 Stat. 1028; Pub. L. 102-572, title VIII, § 801, Oct. 29, 1992, 106 Stat. 4515; Pub. L. 108-372, § 2, Oct. 25, 2004, 118 Stat. 1754.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title II of Pub. L. 98-620, Nov. 8, 1984, 98 Stat. 3336, known as the State Justice Institute Act of 1984, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 10701 of this title and Tables.

AMENDMENTS

2004—Pub. L. 108-372 amended section generally, inserting section catchline and substituting provisions authorizing appropriations for fiscal years 2005 to 2008 for provisions authorizing appropriations for fiscal years 1993 to 1996.

1992—Pub. L. 102-572 amended section generally. Prior to amendment, section authorized appropriations of \$15,000,000 for each of fiscal years 1989, 1990, 1991, and 1992.

1989—Pub. L. 101-162 repealed Pub. L. 100-702, § 607, and revived Pub. L. 100-690, § 7321(a). See 1988 Amendment notes below.

1988—Pub. L. 100-702, § 607, which amended section generally, substituting appropriations authorization of \$15,000,000 for fiscal years 1989 and 1990, such amounts to remain available until expended for authorization of \$15,000,000 for fiscal years 1989, 1990, 1991, and 1992, was repealed by Pub. L. 101-162, title V.

Pub. L. 100-690, § 7321(a), as revived by Pub. L. 101-162, title V, amended section generally, substituting appropriations authorization of \$15,000,000 for fiscal years 1989 through 1992 for authorization of \$13,000,000 for fiscal year 1986 and \$15,000,000 for fiscal years 1987 and 1988.

CHAPTER 114—PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS

SUBCHAPTER I—PROTECTION AND ADVOCACY SYSTEMS

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SUBCHAPTER I—PROTECTION AND ADVOCACY SYSTEMS

PART A—ESTABLISHMENT OF SYSTEMS

§ 10801. Congressional findings and statement of purpose

(a) The Congress finds that—

(1) individuals with mental illness are vulnerable to abuse and serious injury;

(2) family members of individuals with mental illness play a crucial role in being advocates for the rights of individuals with mental illness where the individuals are minors, the individuals are legally competent and choose to involve the family members, and the individuals are legally incompetent and the legal guardians, conservators, or other legal representatives are members of the family;

(3) individuals with mental illness are subject to neglect, including lack of treatment, adequate nutrition, clothing, health care, and adequate discharge planning; and

(4) State systems for monitoring compliance with respect to the rights of individuals with mental illness vary widely and are frequently inadequate.

(b) The purposes of this chapter are—

(1) to ensure that the rights of individuals with mental illness are protected; and

(2) to assist States to establish and operate a protection and advocacy system for individuals with mental illness which will—

(A) protect and advocate the rights of such individuals through activities to ensure the enforcement of the Constitution and Federal and State statutes; and

(B) investigate incidents of abuse and neglect of individuals with mental illness if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred.

(Pub. L. 99-319, title I, § 101, May 23, 1986, 100 Stat. 478; Pub. L. 102-173, §§ 3, 10(2), Nov. 27, 1991, 105 Stat. 1217, 1219.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original “this Act”, meaning Pub. L. 99-319, May 23, 1986, 100 Stat. 478, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-173, § 10(2), substituted “individuals with mental illness” for “mentally ill individuals” in three places.

Subsec. (a)(2) to (4). Pub. L. 102-173, § 3, added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (b). Pub. L. 102-173, § 10(2), substituted “individuals with mental illness” for “mentally ill individuals” in three places.

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102-173, § 1, Nov. 27, 1991, 105 Stat. 1217, provided that: “This Act [amending this section and sections 10802 to 10807, 10821, 10824, 10826, 10827, 10841, and 10851 of this title] may be cited as the ‘Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1991’.”

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-509, § 1, Oct. 20, 1988, 102 Stat. 2543, provided that: “This Act [amending sections 10802, 10804 to 10806, 10821, 10822, 10825, and 10827 of this title and enacting a provision set out as a note under section 10827 of this title] may be cited as the ‘Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1988’.”

SHORT TITLE

Pub. L. 99-319, § 1, May 23, 1986, 100 Stat. 478, as amended by Pub. L. 106-310, div. B, title XXXII, § 3206(a), Oct. 17, 2000, 114 Stat. 1193, provided that: “This Act [enacting this chapter and section 247a of this title and enacting provisions set out as a note below] may be cited as the ‘Protection and Advocacy for Individuals with Mental Illness Act’.”

SUPERSEDURE OF BALANCED BUDGET PROVISIONS

Pub. L. 99-319, title IV, § 402, May 23, 1986, 100 Stat. 490, provided that: “This Act [see Short Title note above] shall not be construed as superseding any of the balanced budget provisions set forth in section 3(7) of the Congressional Budget and Impoundment Control Act of 1974 [2 U.S.C. 622(7)].”

§ 10802. Definitions

For purposes of this subchapter:

(1) The term “abuse” means any act or failure to act by an employee of a facility render-